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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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Kurt Eakle

GALA-08729

8074

7590

08/14/2006

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EXAMINER

LEAVITT, MARIA GOMEZ

ART UNIT

PAPER NUMBER

1633

DATE MAILED: 08/14/2006

Please find below and/or attached an Office communication concerning this application or proceeding.



## DETAILED ACTION

### *Election/Restrictions*

Restriction to one of the following inventions is required under 35 U.S.C. 121:

- I. Claims 1-22, and 24 –29 drawn to a host cell, a vector encoding a negative mutant of a BLV Rex protein, classified in class 435, subclass 325.
- II. Claim 23, drawn to a transgenic bovine comprising a vector encoding a negative mutant of a BLV Rex protein that inhibits retroviral replication, classified in class 800, subclass 3.

The inventions are distinct, each from the other because of the following reasons:

Inventions I and II are unrelated. Inventions are unrelated if it can be shown that they are not disclosed as capable of use together and they have different designs, modes of operation, and effects (MPEP § 802.01 and § 806.06). In the instant case the different inventions have different modes of operation, each being used in different capacities, have different functions and produce different effects. Inventions of group I are drawn to a vector and a host cell comprising said vector. Inventions of Group II are drawn to a transgenic bovine. A search for a host cell will not yield any reference to a transgenic animal. The search of inventions of Groups I and II together would impose a serious search burden since the different methodologies are not coextensive. Moreover, the inventions of Groups I and II have a separate status in the art as shown by their different classification. The search of inventions of Groups I and II together would impose a serious search burden since the different methodologies are not coextensive.

Art Unit: 1633

A Species Restriction to one of the following inventions is required under 35 U.S.C. 121:

This application contains claims directed to the following patentably distinct species:

- A specific named species of nucleic acid sequences selected from the group of SEQ ID No. 5 and sequences that hybridize to SEQ ID No. 7, as listed in the Markush Group of claims 4 and 22.

The species are independent or distinct because there are drawn to nucleic acid sequences with different physical properties, and biological functions as a result of containing different expressed genes (see nucleotides 101-105 of SEQ ID No 7). Thus, the combined features of a particular species, distinct structurally and functionally, would not necessarily overlap with one another when a prior art search is conducted.

Applicant is required under 35 U.S.C. 121 to elect a single disclosed species for prosecution on the merits to which the claims shall be restricted if no generic claim is finally held to be allowable. Currently, claim 1 is generic.

Applicant is advised that a reply to this requirement must include an identification of the species that is elected consonant with this requirement, and a listing of all claims readable thereon, including any claims subsequently added. An argument that a claim is allowable or that all claims are generic is considered nonresponsive unless accompanied by an election.

Upon the allowance of a generic claim, applicant will be entitled to consideration of claims to additional species which depend from or otherwise require all the limitations of an allowable generic claim as provided by 37 CFR 1.141. If claims are added after the election, applicant must indicate which are readable upon the elected species. MPEP § 809.02(a).

Art Unit: 1633

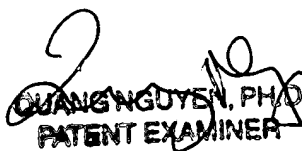
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Maria Leavitt whose telephone number is 571-272-1085. The examiner can normally be reached on M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's mentor Quang Nguyen, Ph.D., whose telephone number is (571) 272-0776 or the examiner's supervisor, Nguyen Dave, can be reached on 571-272-0731. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

To aid in correlating any papers for this application, all further correspondence regarding his application should be directed to Group Art Unit 1636; Central Fax No. (571) 273-8300.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to (571) 272-0547.

Patent applicants with problems or questions regarding electronic images that can be viewed in the Patent Application Information Retrieval system (PAIR) can now contact the USPTO's Patent Electronic Business Center (Patent EBC) for assistance. Representatives are available to answer your questions daily from 6 am to midnight (EST). The toll free number is (866) 217-9197. When calling please have your application serial or patent number, the type of document you are having an image problem with, the number of pages and the specific nature of the problem. The Patent Electronic Business Center will notify applicants of the resolution of the problem within 5-7 business days. Applicants can also check PAIR to confirm that the problem has been corrected. The USPTO's Patent Electronic Business Center is a complete service center supporting all patent business on the Internet. The USPTO's PAIR system provides Internet-based access to patent application status and history information. It also enables applicants to view the scanned images of their own application file folder(s) as well as general patent information available to the public.



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